



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/158006

PRELIMINARY RECITALS

Pursuant to a petition filed May 28, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Kenosha County Human Service Department in regard to Child Care, a hearing was held on June 26, 2014, at Kenosha, Wisconsin.

The issue for determination is whether Kenosha County Human Service Department (the agency) correctly denied the Petitioner's request to backdate her benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Coordinator
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On January 20, 2014, the agency sent Petitioner a Six Month Report Form for FoodShare/Childcare with instructions to return the form by February 5, 2014. (Exhibit 4)
3. The Petitioner did not return the Six Month Report Form. (Testimony of Ms. Mayer)

4. On February 17, 2014, the agency sent Petitioner a notice indicating that her child care benefits would end effective March 1, 2014, because she did not complete the Six Month Report Form. (Exhibit 5)
5. On March 3, 2014, the Petitioner submitted her Six-Month Report Form, but it was not complete, because section four regarding employment income was not filled in. (Exhibit 6)
6. On March 4, 2014, the agency sent the Petitioner a notice indicating that she needed to finish completing the Six Month Report Form. (Exhibit 7)
7. The Petitioner did not submit a completed Six Month Report Form. (Testimony of Ms. Mayer)
8. On May 7, 2014, the Petitioner re-applied for child-care assistance. (Exhibit 8)
9. Petitioner was found eligible for childcare benefits from May 1, 2014 forward. (Exhibit 9)
10. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 29, 2014. (Exhibit 1)

DISCUSSION

The Petitioner does not dispute the agency's position that it properly terminated her childcare benefits effective March 1, 2014. Petitioner filed a request for fair hearing, because she would like her child care benefits to be backdated to March 1, 2014, based upon her new application in May 2014.

Eligibility may only be backdated to the first of the month of the application filing date. *Wisconsin Shares Child Care Manual (CCM) §1.3.6* The only exception is if the applicant requested to schedule an intake appointment during the month, following the month in which the applicant submitted a signed Request for Child Care Assistance (RFA). In that case, benefits would be backdated to the first of the month in which the signed RFA was submitted. *Id.*

In the case at hand, the Petitioner submitted her new application for childcare benefits on May 7, 2014. As such, per CCM §1.3.6, her benefits may only be backdated to May 1, 2014.

The Petitioner asks that an exception to the rule be made for her, because she cannot afford to pay for the balance of the childcare due for the months of March and April 2014. However, administrative law judges do not have the authority to deviate from the established laws and policies governing the Wisconsin Shares program and must follow the law as it is written.

CONCLUSIONS OF LAW

The agency correctly denied the Petitioner's request to backdate her childcare benefits.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 10th day of September, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 10, 2014.

Kenosha County Human Service Department
Child Care Benefits